

§ 1412.305

7 CFR Ch. XIV (1–1–06 Edition)

on the actual grain yield of three similar farms for the applicable year. If producers cannot meet any of these requirements or their crop suffered a low yield, then 75 percent of the county average yield as determined in accordance with §1412.302(b)(4) will be used.

(d) CCC may verify the production evidence submitted with records on file at the warehouse, gin, or other entity which received or may have received the reported production.

§ 1412.305 Incorrect or false production evidence.

(a) If production evidence is false or incorrect, as determined by the county committee, the county committee shall determine whether the owner or producer submitting the production evidence for a farm acted in good faith or took action to defeat the purpose of the program.

(b)(1) If the county committee determines the production evidence submitted is false, incorrect, or unacceptable, and the owner or producer who submitted the evidence did not act in good faith or took action to defeat the purpose of the program, the county committee shall:

(i) Require a refund of all direct and counter-cyclical payments earned for the farm for the first year such payments were made;

(ii) Reduce the counter-cyclical payment yields for all crops on the farm to equal the direct payment yield for all crops except oilseeds. For all oilseeds on the farm, both the direct and counter-cyclical payment yields shall be reduced to 75 percent of the county average yield as determined in accordance with §1412.302(b)(4). That yield shall then be reduced by the applicable direct payment yield factor in accordance with §1412.302(a)(1); and

(iii) Subject to paragraph (a)(2)(i) of this section, require a refund of an amount equal to the following for each covered commodity and peanuts for each year the false, incorrect or unacceptable yield was used to make payments under the contract:

(A) The sum of the direct and counter-cyclical payments made using the false, incorrect or unacceptable evidence, minus

(B) The sum of the direct and counter-cyclical payments that would have been made based on the yields established in paragraph (b)(1)(ii) of this section.

(2) Notwithstanding paragraph (b)(1) of this section, if the county committee determines that the production evidence submitted is false, incorrect, or unacceptable, and the owner or producer who submitted the evidence did not act in good faith or took action to defeat the purpose of the program, the Deputy Administrator may take further action, including but not limited to any or all of the following:

(i) Make a further yield reduction for part or all of the covered commodities and peanuts on the farm;

(ii) Make further payment reductions or refunds;

(iii) Determine that the owner or producer who submitted the evidence is ineligible for participation in future contracts; or

(iv) Take other legal action.

(c) If the county committee determines the production evidence submitted is false, incorrect, or unacceptable, and the owner or producer who submitted the evidence acted in good faith and did not take action to defeat the purpose of the program, the county committee shall:

(1) Correct the counter-cyclical yield for the applicable crop to equal the yield that would have been calculated in accordance with §1412.303 based on accurate production evidence; and

(2) Require a refund of an amount equal to the following for each covered commodity and peanuts for each year the false, incorrect or unacceptable yield was used to make payments under the contract:

(i) The sum of the direct and counter-cyclical payments made using the false, incorrect or unacceptable evidence, minus

(ii) The sum of the direct and counter-cyclical payments that would have been made based on the yields established in paragraph (c)(1) of this section.